REMARKS

Claims 1-8 are currently pending in the present application. Claims 1, 3, 6 and 7 have been amended herein. Support for the present amendments may be found in the specification, at least, at page 4, lines 17-26; page 10, lines 1-11; page 11, lines 6-10; page 12, lines 15-26, page 13, lines 2-9; and page 14, lines 5-12.

Rejection Under 35 U.S.C. § 102(b)

Claims 1 and 3-6 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Tanaka et al. (JP2000-319187 A)(hereinafter "Tanaka").

Discussion of Present Invention

The presently claimed invention is directed to a device which administers a composition comprising water, a thickener and carbon dioxide bubbles. The carbon dioxide bubbles in the composition are made by the reaction of the carbonate and the acid, or are made by blowing carbon dioxide directly into the composition from the carbon dioxide bottle. *See*, at least, page 4, lines 2-8 of the present specification.

For example, as described in the following (a) – (c), the composition is applied to the treatment site. *See*, at least page 4, lines 9-16 of the present specification.

(a) The composition is applied to the treatment site.

(b) The composition is put into the bag made from gauze etc., and then the bag is attached to the treatment site.

(c) The composition is filled into the container, and the treatment site is immersed into the composition of the container. In this case, the carbon dioxide can be supplied into the composition of the container from the carbon dioxide bottle.

The carbon dioxide is transdermally or transmucosally absorbed by the treatment site.

Distinctions of the Cited Prior Art

The Examiner has stated that Tanaka teaches the above feature (c), showing the container structure (the sealing enclosure member) of Claim 1. However, Tanaka is used in a completely different manner from the present invention.

Reference Figure 1, attached herewith for the Examiner's clarification, demonstrates how Tanaka is used. However, the basic use of the present invention is demonstrated in Figure 1 of the present application. As clearly shown in both Figures, there are the following significant differences:

(i) In the present invention, the carbon dioxide is held in the inside space sealed by the sealing enclosure member. On the other hand, in Tanaka, the carbon dioxide is held in the composition of the container, and moreover, the composition is not sealed.

(ii) In the present invention, the carbon dioxide extends to the treatment site, via the carbon dioxide-dissolving medium of the absorption aid, from the inside space. On the other hand, in Tanaka, the carbon dioxide extends to the treatment site from the composition.

(iii) In the present invention, the carbon dioxide contacts the treatment site under conditions wherein the carbon dioxide is dissolved into the carbon dioxide-dissolving medium. On the other hand, in Tanaka, the carbon dioxide contacts the treatment site under conditions wherein the carbon dioxide is in bubble form.

Thus, the present invention differs from Tanaka in both construction and function.

Additionally, Tanaka differs from the present invention in that Tanaka does not disclose the presence of a carbon dioxide absorption aid. The carbon dioxide absorption aid dissolves the carbon dioxide. If the carbon dioxide absorption aid is present, the carbon dioxide would not exist in bubble form, as is disclosed in Tanaka.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Here, it is clear that Tanaka does not teach each and every element of the presently claimed invention. Thus, Tanaka cannot constitute a proper anticipatory reference, within the meaning of 35 U.S.C. § 102(b). Accordingly, Applicants respectfully request reconsideration and withdrawal of the outstanding rejection.

Rejections Under 35 U.S.C. § 103(a)

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by Tanaka in view of USP 4,781,645 to Kato (hereinafter "Kato").

Claim 7 stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by Tanaka in view of USP 5,756,632 to Ward et al. (hereinafter "Ward").

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by Tanaka.

For at least the reasons discussed above, in the context of the 35 U.S.C. § 102(b) rejection, Tanaka does not teach the presently claimed invention. Additionally, the secondary references of Kato and Ward do not cure the deficiencies of Tanaka. Accordingly, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections.

In view of the foregoing, Applicant believes the pending application is in condition for allowance. A Notice of Allowance is earnestly solicited.

Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Monique T. Cole, Reg. No. 60,154 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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Attachment: Reference Figure 1

Reference Figure 1